



Staff Report

INTRODUCTION OF AN ORDINANCE AMENDING ARTICLE 4 OF CHAPTER 21 OF THE BELMONT MUNICIPAL CODE RELATING TO SEWER CHARGES AND ADOPTING A SCHEDULE OF SEWER CHARGES TO BE EFFECTIVE BEGINNING TAX YEAR 2008-09

Honorable Mayor and Council Members:

Summary

On February 26, 2008 the City Council approved a Resolution “Calling a Special Notice Proceeding and Setting the Time and Place for a Public Hearing on Increases to Rates, Fees and Charges for Sewer Services”. The date set for that public hearing is May 13, 2008.

An ordinance has been prepared that will, subject to provisions of the protest requirements and City Council’s approval, place into effect revised sewer rates for FY 2008-09 which, in aggregate, will raise revenue by 8.5%.

Background

In setting the revised rates, the City has complied with each of the requirements of Section 6 of Article XIID of the California Constitution with respect to the actions taken by this Ordinance. The rates established by this Ordinance do not exceed the amounts permissible under Article XIID for a fee for a sewer services, and the sewer service charge is not a tax. The City complied with the special notice procedures pursuant to Section 6 of Article XIID of the California Constitution. A majority protest, as defined by Section 6(b) of Article XIID of the California Constitution does not exist with respect to the re-establishment and increase of the sewer service charge. The City received thirty-six (36) written protests as of this moment in time. The required amount of written protests is four thousand one hundred and twenty-seven (4,127), or one more than 50% the total properties of record eight thousand two hundred and fifty-two (8,252).

Discussion

Specialized legal counsel has drafted an ordinance for introduction by City Council complying with the requirements of Proposition 218. Included in that ordinance is Exhibit A (attached) which shows the revised annual rates proposed for adoption by the City Council. The City Council did not approve an Ordinance in fiscal year 2007-2008 to increase the sewer services charges by the recommended 12% required to cover the cost of the operation and maintenance, debt coverage and rate stabilization. However, this year’s recommendation takes into

consideration the retro rate required to cover the cost of the service per the attached report from John Farnkopf. The City initiated extensive outreach forums to the community on the subject of the sewer charges, including: mailing the protest notice to all property owners on March 21; provided sewer information handouts to the Chamber of Commerce; provided information handouts to the Neighborhood Associations; a front page article in the Citywide Newsletter distributed in late March; a press release to all local newspapers; featured in the “Hot Topics” on the city website www.belmont.gov; an e-mail distribution of the information packet to all persons on the City Council distribution list (access to this list is available to all who provide their e-mail address to the City Council through the City Manager’s office); all letters of protest by property owners were followed-up with a letter from the City Manager along with the information packet explaining the need for the sewer charge increase; a sewer rate calculator was made available on the City’s website under “Hot Topics” FY 2009 Sewer Charges; public noticing of the Community meeting of April 28, 2008 was placed in the newspapers, on the website and in the Citywide Newsletter. The Community meeting has held on April 28, 2008 with one person in attendance.

General Plan/Vision Statement

No impact.

Fiscal Impact

Revenue received provides charges for services for the operation and maintenance of the sewer plant, operation of the public works sewer costs, debt service, and rate stabilization costs. The rates do not include Belmont’s portion of capital improvement costs for SBSA sewer plant. The rate does include the rate increase proposed in fiscal year 2007-2008 that was not approved. Implementation of the proposed rate structure is anticipated to raise \$5,718,364 in sewer service charges and represents an 8.5% increase.

Public Contact

Protest notice was mailed to all property owners on March 21; staff provided sewer information handouts to the Chamber of Commerce and Neighborhood Associations. In addition, a front page article in the Citywide Newsletter was distributed in late March, a press release was distributed to all local newspapers, the notice was also featured in the “Hot Topics” section of the City’s website, information packet was distributed to all persons on the City Council distribution list and all letters of protest by property owners were followed-up with a letter from the City Manager along with the information packet explaining the need for the sewer charge increase. Furthermore, a sewer rate calculator was also made available on the City’s website under “Hot Topics” FY 2009 Sewer Charges and public notice of the Community meeting of April 28, 2008 was placed in the newspapers, on the website, in the Citywide Newsletter, on the City’s bulletin board, Senior Center and the Library. Lastly, a Community meeting was held at the Library.

Recommendation

At the conclusion of the public hearing and after hearing any testimony, should sufficient

protests be submitted in opposition of the rates, stop further proceedings of the rate proposal. Otherwise, adopt the Ordinance revising the City's sewer service charges per Exhibit A.

Alternatives

1. Do not adopt the Ordinance to increase the sewer rates for fiscal year 2008-2009. The option to not adopt the increased rates would put the City in jeopardy of being out of compliance with our debt coverage which would affect the City's debt rating with the national rating agencies. The city currently has an excellent rate with the major rating agencies of AA.
2. Take no action.

Attachments

- A. Ordinance Amending Article 4 of Chapter 21 of the Belmont Municipal Code Relating to Sewer Charges and Adopting a Schedule of Sewer Charges to be Effective Beginning Tax Year 2008-09
- B. Exhibit A "Sewer Charge Schedule"
- C. Sewer Rate Analysis by John Farnkopf

Respectfully submitted,

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ORDINANCE NO. _____

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELMONT AMENDING ARTICLE
4 OF CHAPTER 21 OF THE BELMONT MUNICIPAL CODE RELATING TO SEWER
CHARGES AND ADOPTING A SCHEDULE OF SEWER CHARGES TO BE EFFECTIVE
BEGINNING TAX YEAR 2008-09

WHEREAS, Section 21.93 of the Belmont Municipal Code and Section 5471 of the California Health & Safety Code permit the City Council of the City of Belmont to set the City's sewer charges; and,

WHEREAS, on May 13, 2008, the City Council held a full and fair public hearing, properly noticed as required by law, at which all persons interested, were given an opportunity to provide oral and written testimony with respect to a proposed revision of the City's sewer charges; and,

WHEREAS, the City Council desires to adopt a revised schedule of sewer charges and to update the provisions of the Municipal Code relating to the establishment of sewer charges.

NOW, THEREFORE, the City Council of the City of Belmont does ordain as follows:

SECTION 1: Section 21.93 of the Belmont Municipal Code is amended to read as follows:

SECTION 21.93. SCHEDULE OF CHARGES

The City Council shall, by Ordinance adopted pursuant to Section 5471 of the California Health & Safety Code, adopt a schedule of charges for sewer service. Such schedule of charges shall remain in effect until amended or repealed by the City Council."

SECTION 2: Section 21.94 and 21.95 of the Belmont Municipal Code are hereby repealed.

SECTION 3: Pursuant to Section 21.93 of the Belmont Municipal Code, the City Council hereby establishes the schedule set forth in Exhibit A to this Ordinance, which is incorporated herein by reference, as the City's schedule of charges for sewer service. Such schedule shall be effective for service provided beginning July 1, 2008 and billed on the 2008-09 tax roll.

SECTION 4: The City Council hereby finds and determines that:

A. The City has complied with each of the requirements of Section 6 of Article XIID of the California Constitution with respect to the actions taken by this Ordinance.

B. The rates established by this Ordinance do not exceed the amounts permissible under Article XIID for a fee for sewer service, and the sewer charge is not a tax.

C. A majority protest, as defined by Section 6(b) of Article XIID of the California Constitution does not exist with respect to the reestablishment and increase of the sewer service charge.

SECTION 5: The City Council hereby declares that it would have passed this Ordinance word

by word, sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions of this Ordinance are severable and, if for any reason any word, sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

SECTION 6: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Belmont hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

SECTION 7: Pursuant to Section 36937 of the Government Code of the State of California, this Ordinance shall take effect and be in full force and effect thirty (30) days after its final passage.

SECTION 8: The City Clerk shall cause this Ordinance to be published and posted in accordance with the requirements of Section 36933 of the Government Code of the State of California.

Introduced this 13th day of May 2008.

* * * * *

PASSED AND ADOPTED as an Ordinance of the City of Belmont at a regular meeting thereof held on the _____, 2008.

AYES, COUNCILMEMBERS: _____

NOES, COUNCILMEMBERS: _____

ABSENT, COUNCILMEMBERS: _____

ABSTAIN, COUNCILMEMBERS: _____

Mayor of the City of Belmont

ATTEST:

Clerk of the City of Belmont

**EXHIBIT “A”
SEWER CHARGES**

Sewer charges shall be the sum of a service charge and a flow charge determined as follows.

1. Service Charge

a. Residential Customers (single-family and multi-family):

\$238.16 per dwelling unit per year.

b. Non-Residential Customers

\$238.16 per parcel per year.

2. Flow Charge

a. Low-strength customer class -- (all residential and non-residential other than Supermarkets with Grinders and Restaurants with On-Site Food Preparation):

\$3.12 per hundred cubic feet of estimated annual wastewater discharge.

b. High-strength customer class – (Supermarkets with Grinders and Restaurants with On-Site Food Preparation)

\$6.08 per hundred cubic feet of estimated annual wastewater discharge.

Notes

- Annual wastewater discharge for a sewer connection will be estimated as twelve times the estimated monthly winter water use at the location served by the connection.
- The winter water use for a location will be estimated as the average of the meter readings provided by the Mid-Peninsula Water District for the December through March period from the second year prior to the year for which charges are calculated. If December through March readings are not available for that year, but are available for the December through March period from the year prior to the year for which the charges are calculated, then the later readings shall be used for the average.

- If December through March readings are not available for a residential connection (as when a connection is established after the most recent December), then annual wastewater discharge will be estimated based on an estimated monthly winter water use of 8 hcf.
- For non-residential connections, if December through March readings are not available, or, where in the determination of the Director of Finance the type of business using the commercial connection has changed such that prior readings can not accurately predict future wastewater discharge, annual wastewater discharge will be estimated by the Director of Finance based upon his or her best estimation based upon the type of use of the connection, but in no event shall the estimated flow in such case be less than half of the average estimated flow for all commercial connections in the City during the prior year.
- Sewer charges will be billed on the San Mateo County tax rolls. An additional \$1.25 charge will be added to each parcel by the San Mateo County Auditor to cover county fees related to collecting the sewer charges on the tax roll.
- The \$245.40 standby charge for parcels that are undeveloped and not currently using sewer service or being charged a sewer service charge will continue unchanged.

